

EXHIBIT 12

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Reported by:
Philip Rizzuti
JOB NO. 46188

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|--|--|
| <p>1 Allan</p> <p>2 of selecting a cartoon, then he should</p> <p>3 not answer the question based on the</p> <p>4 editorial privilege.</p> <p>5 MR. THOMPSON: So we will mark the</p> <p>6 questions you instruct him not to answer,</p> <p>7 we will get a ruling. Also I just want</p> <p>8 to make it clear both of you should not</p> <p>9 be speaking on the record. You should</p> <p>10 not object. We have Jordan Lippner</p> <p>11 objecting, we have you speaking. Who is</p> <p>12 defending this deposition?</p> <p>13 MR. LERNER: I am here as counsel</p> <p>14 for the papers. Mr. Lippner is here as</p> <p>15 counsel for Mr. Allan.</p> <p>16 MR. THOMPSON: So Mr. Lippner is</p> <p>17 going to be counsel for Mr. Allan and</p> <p>18 your 30(b)(6) witness in this case;</p> <p>19 because that is what we were told?</p> <p>20 MR. LERNER: Yes.</p> <p>21 Q. All right, let's continue Mr.</p> <p>22 Allan. So before Rupert Murdoch called you</p> <p>23 did you know that people were offended by the</p> <p>24 cartoon?</p> <p>25 A. I became aware, yes.</p> | <p>1 Allan</p> <p>2 Q. How did you become aware?</p> <p>3 A. I don't recall.</p> <p>4 Q. You don't recall?</p> <p>5 A. I don't.</p> <p>6 Q. Well do you recall the first</p> <p>7 person who told you that people were offended?</p> <p>8 A. No.</p> <p>9 Q. So as you sit here today the first</p> <p>10 person you can identify who told you that</p> <p>11 people were offended was Rupert Murdoch?</p> <p>12 MR. LERNER: Objection.</p> <p>13 MR. LIPPNER: Objection.</p> <p>14 A. I was aware before then.</p> <p>15 Q. I understand that, but my question</p> <p>16 is different sir. My question is can you</p> <p>17 identify the first person who told you that</p> <p>18 people were offended by that cartoon?</p> <p>19 A. I cannot.</p> <p>20 Q. So as you sit here now the only</p> <p>21 person that you can recall telling you first</p> <p>22 that the cartoon offended people was Rupert</p> <p>23 Murdoch?</p> <p>24 MR. LERNER: Objection.</p> <p>25 A. I was aware people were offended,</p> |
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| <p>1 Allan</p> <p>2 it was on the blogs.</p> <p>3 Q. So let's go back to that</p> <p>4 conversation you had with your boss. He</p> <p>5 called you up and he told you that he was</p> <p>6 aware that people were offended by that</p> <p>7 cartoon; correct?</p> <p>8 A. Yes.</p> <p>9 Q. What did you say to him in</p> <p>10 response to his statement that he knew that</p> <p>11 people were offended?</p> <p>12 A. I told him the cartoon was not</p> <p>13 offensive. I told him that it mocked the</p> <p>14 Congressional stimulus bill, and that that was</p> <p>15 clear, and that it was my opinion that it was</p> <p>16 inoffensive.</p> <p>17 Q. It was not offensive?</p> <p>18 A. Yes.</p> <p>19 Q. Did you say anything else to</p> <p>20 Mr. Murdoch during that telephone call?</p> <p>21 A. I don't recall.</p> <p>22 Q. Do you recall if he said anything</p> <p>23 else to you about the cartoon during that</p> <p>24 call?</p> <p>25 A. I don't believe so.</p> | <p>1 Allan</p> <p>2 Q. Well when you told your boss that</p> <p>3 the cartoon wasn't offensive how did he</p> <p>4 respond to that statement?</p> <p>5 A. I don't recall.</p> <p>6 Q. As you sit here today do you still</p> <p>7 believe that cartoon is not offensive?</p> <p>8 A. Yes.</p> <p>9 DI Q. So I want to direct your attention</p> <p>10 again to Deposition Exhibit 1, well let me ask</p> <p>11 you another question before I go to that</p> <p>12 exhibit again.</p> <p>13 Do you believe that it was a</p> <p>14 mistake to publish that cartoon?</p> <p>15 MR. LIPPNER: Mr. Allan, with</p> <p>16 respect to the decision to publish the</p> <p>17 cartoon you as a journalist have an</p> <p>18 editorial privilege not to comment on the</p> <p>19 decision to publish or not publish</p> <p>20 material in your newspaper, and on that</p> <p>21 basis I would advise you not to answer</p> <p>22 that question.</p> <p>23 Q. Mr. Allan, are you going to answer</p> <p>24 that question?</p> <p>25 A. I am going to take the advice of</p> |

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| <p>1 Allan</p> <p>2 complained about the monkey cartoon?</p> <p>3 A. That is correct.</p> <p>4 Q. When was the very first time</p> <p>5 Jennifer Jehn told you about Ms. Guzman's</p> <p>6 complaint about the cartoon; was it the day it</p> <p>7 was published or sometime after that?</p> <p>8 MR. LIPPNER: Objection.</p> <p>9 A. I don't recall.</p> <p>10 Q. Well did you go to HR to have this</p> <p>11 conversation with Jennifer Jehn or did she</p> <p>12 come to your office?</p> <p>13 MR. LIPPNER: Objection.</p> <p>14 A. She called me.</p> <p>15 Q. What did she say when she called</p> <p>16 you?</p> <p>17 A. She told me that Sandra was upset</p> <p>18 about the cartoon, that she had friends who</p> <p>19 were upset, and she was seeking an explanation</p> <p>20 from the company.</p> <p>21 Q. Who was seeking an explanation</p> <p>22 from the company?</p> <p>23 A. Sandra Guzman.</p> <p>24 Q. What did Sandra Guzman want the</p> <p>25 company to explain according to Jennifer Jehn?</p> | <p>1 Allan</p> <p>2 MR. LERNER: Objection.</p> <p>3 A. Why it was published.</p> <p>4 Q. Did Jennifer Jehn tell you</p> <p>5 anything else during that call?</p> <p>6 A. Only that there was no offense</p> <p>7 meant in the paper publishing the cartoon and</p> <p>8 that it had been misunderstood, although she</p> <p>9 appreciated that Sandra had taken offense.</p> <p>10 Q. So Jennifer Jehn told you that the</p> <p>11 paper did not intend to offend anyone with the</p> <p>12 cartoon?</p> <p>13 A. She told me she had so informed</p> <p>14 Sandra Guzman.</p> <p>15 Q. Did she describe to you Sandra</p> <p>16 Guzman's demeanor at the time?</p> <p>17 A. Yes.</p> <p>18 Q. What did she describe about Ms.</p> <p>19 Guzman's demeanor?</p> <p>20 A. She was upset.</p> <p>21 Q. Did Ms. Jehn describe how upset</p> <p>22 Ms. Guzman was?</p> <p>23 A. Just upset.</p> <p>24 Q. Did she tell you that she was</p> <p>25 crying?</p> |
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| <p>1 Allan</p> <p>2 A. No.</p> <p>3 Q. Did she tell you that she was</p> <p>4 tearful?</p> <p>5 A. No.</p> <p>6 Q. Did Ms. Jehn tell you that Sandra</p> <p>7 Guzman told her that she believed that the</p> <p>8 monkey cartoon reflected a racist work</p> <p>9 environment at the New York Post?</p> <p>10 A. No.</p> <p>11 Q. Did Ms. Jehn tell you that Sandra</p> <p>12 Guzman said that the monkey cartoon reflected</p> <p>13 a sexist work environment at the New York</p> <p>14 Post?</p> <p>15 A. No.</p> <p>16 Q. Did she tell you that Sandra</p> <p>17 Guzman said that the monkey cartoon reflected</p> <p>18 a discriminatory work environment at the New</p> <p>19 York Post?</p> <p>20 A. No.</p> <p>21 Q. Did she tell you anything else</p> <p>22 during that call?</p> <p>23 A. No.</p> <p>24 Q. How long did the call last?</p> <p>25 A. I don't recall.</p> | <p>1 Allan</p> <p>2 Q. Do you have any idea?</p> <p>3 A. Couple of minutes.</p> <p>4 Q. Well in a couple of minutes many</p> <p>5 things can be said; correct?</p> <p>6 MR. LIPPNER: Objection.</p> <p>7 A. Correct.</p> <p>8 Q. Do you recall anything else that</p> <p>9 either Ms. Jehn said or you said when she</p> <p>10 called you to tell you that Sandra Guzman had</p> <p>11 complained to her about the cartoon?</p> <p>12 A. No.</p> <p>13 Q. Did you ever speak to Ms. Jehn</p> <p>14 again about the fact that Ms. Guzman had</p> <p>15 complained about the cartoon?</p> <p>16 A. I don't recall.</p> <p>17 Q. In February of 2009 who was the</p> <p>18 person in charge of human resources at the New</p> <p>19 York Post?</p> <p>20 A. It was either Jennifer Jehn or Amy</p> <p>21 Scialdone.</p> <p>22 Q. Jennifer Jehn?</p> <p>23 A. Jennifer Jehn, yes.</p> <p>24 Q. So did Jennifer Jehn tell you that</p> <p>25 she was going to take any other action with</p> |

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| <p>1 Allan</p> <p>2 Q. So you only remember if a</p> <p>3 competitor attacks the Post, but not an</p> <p>4 employee attacks The Post?</p> <p>5 A. Yes, it is a different thing.</p> <p>6 Q. Mr. Allan, did you ever show</p> <p>7 Sandra Guzman a picture of a naked man during</p> <p>8 her employment as an associate editor?</p> <p>9 A. I believe I did, yes.</p> <p>10 Q. When did you show Ms. Guzman a</p> <p>11 picture of a naked man?</p> <p>12 A. I believe it happened in a bar.</p> <p>13 Q. What bar?</p> <p>14 A. Langan's.</p> <p>15 Q. Where is that?</p> <p>16 A. 47th Street.</p> <p>17 Q. Is it a bar that you have been to</p> <p>18 many times?</p> <p>19 A. Often, yes.</p> <p>20 Q. Is it a bar that other New York</p> <p>21 Post employees go to?</p> <p>22 A. Yes.</p> <p>23 Q. Is it a bar that you have</p> <p>24 performed work related activities in</p> <p>25 connection with the Post?</p> | <p>1 Allan</p> <p>2 A. Yes. Sometimes.</p> <p>3 Q. What type of work have you</p> <p>4 performed at Langan's for the Post?</p> <p>5 A. Well I entertain my staff, I have</p> <p>6 lunch occasionally with people I know in</p> <p>7 business.</p> <p>8 Q. Do you also edit the paper</p> <p>9 occasionally from Langan's?</p> <p>10 A. Never, impossible.</p> <p>11 Q. Do you also talk about potential</p> <p>12 stories that may appear in the paper while you</p> <p>13 are at Langan's?</p> <p>14 A. Of course.</p> <p>15 Q. Is Langan's a bar that many New</p> <p>16 York Post employees go to after work?</p> <p>17 MR. LERNER: Objection.</p> <p>18 A. Yes.</p> <p>19 Q. When Sandra Guzman worked at the</p> <p>20 company was that true?</p> <p>21 A. Yes.</p> <p>22 Q. Did you ever see her at Langan's?</p> <p>23 A. Yes.</p> <p>24 Q. Did you ever see her more than</p> <p>25 once at Langan's?</p> |
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| <p>1 Allan</p> <p>2 A. Yes.</p> <p>3 Q. How many times did you see Sandra</p> <p>4 Guzman at Langan's?</p> <p>5 A. I don't know, several.</p> <p>6 Q. When she worked at the company did</p> <p>7 other editors who reported to you also go to</p> <p>8 Langan's?</p> <p>9 A. Yes.</p> <p>10 Q. They went with you to Langan's?</p> <p>11 A. No, I often saw them there.</p> <p>12 Q. When you saw those other editors</p> <p>13 at Langan's did you also talk about work</p> <p>14 related matters?</p> <p>15 A. Of course.</p> <p>16 Q. Describe who was -- strike that.</p> <p>17 Identify who was present when you</p> <p>18 showed Sandra Guzman a picture of a naked man</p> <p>19 in Langan's?</p> <p>20 A. My memory is not clear, but I</p> <p>21 believe Jesse Angelo was there. Another male</p> <p>22 editor. I think Danica Lo was there. Sandra</p> <p>23 Guzman. Maybe one other. Forgive me, my</p> <p>24 memory is unclear.</p> <p>25 Q. You don't recall the identity of</p> | <p>1 Allan</p> <p>2 the male editor that was there along with</p> <p>3 Jesse Angelo?</p> <p>4 A. It may have been David Boyle, but</p> <p>5 I am not certain.</p> <p>6 MR. LIPPNER: Don't guess.</p> <p>7 THE WITNESS: Sorry.</p> <p>8 Q. What year did this occur?</p> <p>9 A. I am sorry, I can't recall.</p> <p>10 Q. Did you go to Langan's with</p> <p>11 Ms. Guzman?</p> <p>12 A. No. I walked there by myself.</p> <p>13 Q. Did you see her standing there?</p> <p>14 A. Yes, when I walked in.</p> <p>15 Q. Why don't you describe what</p> <p>16 happened after you walked into Langan's that</p> <p>17 day?</p> <p>18 A. I had a drink with Jesse Angelo</p> <p>19 and I think there was somebody else there. We</p> <p>20 were standing at the bar and we were</p> <p>21 subsequently joined by Sandra Guzman and</p> <p>22 whomever was with her.</p> <p>23 Q. Did they come over to you?</p> <p>24 A. Yes, and I bought them a round of</p> <p>25 drinks.</p> |

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| <p>1 Allan</p> <p>2 Q. So Sandra Guzman, and was she with</p> <p>3 Danica Lo or somebody else?</p> <p>4 A. I think Danica Lo was there, I am</p> <p>5 sorry, I don't remember.</p> <p>6 Q. So continue, what happened after</p> <p>7 Ms. Guzman and other employees came up to you?</p> <p>8 A. I bought them a drink. At some</p> <p>9 point I received an E-mail from the office</p> <p>10 that contained for my perusal a picture of a</p> <p>11 naked man.</p> <p>12 Q. Who sent you that picture?</p> <p>13 A. Somebody on the photo desk.</p> <p>14 Q. Do you recall who?</p> <p>15 A. I don't.</p> <p>16 Q. Did the E-mail say anything about</p> <p>17 the picture of the naked man?</p> <p>18 A. I don't recall.</p> <p>19 Q. What happened after you received</p> <p>20 the picture of the naked man by E-mail?</p> <p>21 A. I was aware of what it was. I had</p> <p>22 been told by whomever was editing the Sunday</p> <p>23 paper at the time that we were likely going to</p> <p>24 obtain a picture, a lewd picture of a man that</p> <p>25 sat above the bed of the governor of New</p> | <p>1 Allan</p> <p>2 Jersey.</p> <p>3 Q. Who at the time --</p> <p>4 MR. LIPPNER: Are you done with</p> <p>5 your answer?</p> <p>6 THE WITNESS: Yes.</p> <p>7 Q. When you say the governor of New</p> <p>8 York are you referring to Jim McGreevey?</p> <p>9 A. Yes.</p> <p>10 Q. So you knew that, or thought that</p> <p>11 the Post was going to get a picture --</p> <p>12 A. I knew that we had --</p> <p>13 Q. A lewd picture?</p> <p>14 A. Yes, I knew that we had obtained a</p> <p>15 lewd picture of the governor.</p> <p>16 Q. Right.</p> <p>17 A. And I had asked before I left the</p> <p>18 office because it was getting late in the day,</p> <p>19 that they might E-mail it to me.</p> <p>20 Q. Please continue?</p> <p>21 A. The purpose of the E-mailing it to</p> <p>22 me was for me to consider it for publication.</p> <p>23 This was undertaken in the context of the</p> <p>24 scandal surrounding the governor's sex life,</p> <p>25 which was public knowledge. And I showed it</p> |
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| <p>1 Allan</p> <p>2 to Jesse Angelo who was with me and we briefly</p> <p>3 discussed it. Whether or not or how we might</p> <p>4 be able to publish the picture in a way that</p> <p>5 was not offensive to people.</p> <p>6 Q. What did you say to Mr. Angelo and</p> <p>7 what did he say to you about that?</p> <p>8 A. Well we discussed the obvious,</p> <p>9 that we would have to disguise his groin, we</p> <p>10 would have to cover it up.</p> <p>11 Q. Because you didn't want to offend</p> <p>12 anyone; right?</p> <p>13 A. Precisely.</p> <p>14 Q. Because you would agree people,</p> <p>15 some people may get offended if they had to</p> <p>16 look at a picture of a naked man with his</p> <p>17 genitals exposed?</p> <p>18 A. Possibly.</p> <p>19 Q. So did you and Jesse Angelo talk</p> <p>20 about anything else regarding that picture?</p> <p>21 A. No, we just discussed that it was</p> <p>22 sort of a striking image for the governor of</p> <p>23 New Jersey to have over his bed, and that we</p> <p>24 discussed how we might be able to make it</p> <p>25 suitable for publication.</p> | <p>1 Allan</p> <p>2 Q. Did you receive this picture on</p> <p>3 your Blackberry?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Do you still have that picture on</p> <p>6 your Blackberry?</p> <p>7 A. I have an iPhone now, so I don't</p> <p>8 know.</p> <p>9 Q. Did you ever save that picture on</p> <p>10 your Blackberry?</p> <p>11 A. I don't know.</p> <p>12 Q. So what happened -- strike that.</p> <p>13 Were you and Jesse Angelo just</p> <p>14 talking among yourselves about how you can</p> <p>15 publish this photo without offending anyone?</p> <p>16 MR. LIPPNER: Objection.</p> <p>17 A. We were standing at the bar</p> <p>18 discussing it.</p> <p>19 Q. Was it just the two of you</p> <p>20 discussing it at that time?</p> <p>21 A. Yes.</p> <p>22 Q. Then what happened next?</p> <p>23 A. One of the ladies asked us what we</p> <p>24 were talking about.</p> <p>25 Q. Who?</p> |

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|---|--|
| <p>1 Allan</p> <p>2 Q. Who is the owner of Langan's?</p> <p>3 A. Des O'Brien.</p> <p>4 Q. Des O'Brien?</p> <p>5 A. O'Brien.</p> <p>6 Q. When did Des O'Brien tell you</p> <p>7 about Steve Dunlevy having sex with a woman in</p> <p>8 the closet at Langan's?</p> <p>9 A. When I first got here, I guess in</p> <p>10 2001, 2002.</p> <p>11 Q. What did he tell you about that</p> <p>12 incident?</p> <p>13 A. He told me that he had found</p> <p>14 Dunlevy having sex with a woman in the closet.</p> <p>15 Q. At Langan's?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Did he say if the women's leg was</p> <p>18 hanging out the closet?</p> <p>19 A. No, sir.</p> <p>20 Q. Did he describe the woman at all?</p> <p>21 A. Not that I recall.</p> <p>22 Q. How did you and the owner of</p> <p>23 Langan's end up talking about Steve Dunlevy</p> <p>24 having sex with a woman in Langan's?</p> <p>25 MR. LERNER: Objection to the</p> | <p>1 Allan</p> <p>2 form.</p> <p>3 A. He was friendly with Dunlevy.</p> <p>4 Q. How did you two end up talking</p> <p>5 about Dunlevy's sex life?</p> <p>6 A. I met him, Dunlevy had introduced</p> <p>7 us, and in the course of that introduction or</p> <p>8 soon after he told me the story about Dunlevy.</p> <p>9 Q. And you and Steve Dunlevy had gone</p> <p>10 to Langan's on many occasions; correct?</p> <p>11 A. No.</p> <p>12 Q. You did go to Langan's with Steve</p> <p>13 Dunlevy?</p> <p>14 A. Occasionally.</p> <p>15 Q. You guys would have drinks; right?</p> <p>16 A. Yes.</p> <p>17 Q. You were not only employees of the</p> <p>18 company, you were friends?</p> <p>19 A. Yes.</p> <p>20 Q. So where were you when you</p> <p>21 repeated this story that Des O'Brien told you</p> <p>22 about Steve Dunlevy having sex with a woman in</p> <p>23 the closet at Langan's; were you in the</p> <p>24 workplace at 1211 Avenue of the Americas or</p> <p>25 some other place?</p> |
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| <p>1 Allan</p> <p>2 MR. LIPPNER: Objection.</p> <p>3 A. I was at Langan's.</p> <p>4 Q. Was anyone else present?</p> <p>5 A. A bunch of people.</p> <p>6 Q. Do you recall who was present?</p> <p>7 A. Not really.</p> <p>8 Q. Sandra Guzman?</p> <p>9 A. New York Post people.</p> <p>10 Q. New York Post employees?</p> <p>11 A. Yes.</p> <p>12 Q. Was Sandra Guzman present?</p> <p>13 A. Yes.</p> <p>14 Q. Was this the same day you showed</p> <p>15 the picture, the lewd picture of the naked man</p> <p>16 to Ms. Guzman that was on your Blackberry?</p> <p>17 A. No.</p> <p>18 Q. Different day?</p> <p>19 A. I believe so.</p> <p>20 Q. Besides Ms. Guzman who else was</p> <p>21 there from the New York Post or the News</p> <p>22 Corp.?</p> <p>23 A. I don't remember. I don't</p> <p>24 remember.</p> <p>25 Q. Well describe what happened in</p> | <p>1 Allan</p> <p>2 Langan's that day when you ended up telling</p> <p>3 Ms. Guzman about how Steve Dunlevy had sex</p> <p>4 with a woman in the closet at Langan's?</p> <p>5 MR. LIPPNER: Objection.</p> <p>6 Mischaracterizes the testimony.</p> <p>7 A. There were a group of people as I</p> <p>8 stated, Dunlevy I think was there or had left.</p> <p>9 He became the topic of some conversation</p> <p>10 because he is a character of note, and I</p> <p>11 subsequently stated that I had been told by</p> <p>12 Des O'Brien that he had found him having sex</p> <p>13 in the closet.</p> <p>14 Q. Why did you tell Sandra Guzman</p> <p>15 that?</p> <p>16 A. I told a bunch of people that.</p> <p>17 Q. My question is why did you tell</p> <p>18 Ms. Guzman that?</p> <p>19 MR. LIPPNER: Objection.</p> <p>20 A. I thought she would be amused.</p> <p>21 Q. So you thought that Sandra Guzman</p> <p>22 would be amused to hear her boss tell her</p> <p>23 about how another male employee had sex with a</p> <p>24 woman in Langan's?</p> <p>25 A. Yes.</p> |

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| <p>1 Allan</p> <p>2 Q. Who is she?</p> <p>3 A. She used to work in I think the</p> <p>4 travel department.</p> <p>5 Q. Was she an older employee?</p> <p>6 A. Older, what does that mean?</p> <p>7 Q. How old was she when she worked at</p> <p>8 the paper?</p> <p>9 A. 40 or 45.</p> <p>10 Q. Did you ever refer to Poochie Myer</p> <p>11 by stating you can't teach old bitches new</p> <p>12 tricks?</p> <p>13 A. I never said that.</p> <p>14 Q. Did you say anything like that?</p> <p>15 A. I don't think so.</p> <p>16 Q. Did you say anything about</p> <p>17 teaching old tricks in connection with Poochie</p> <p>18 Myer?</p> <p>19 A. I don't believe so.</p> <p>20 Q. You say you don't believe so Mr.</p> <p>21 Allan --</p> <p>22 A. It is not the sort of thing I</p> <p>23 would say. I don't recall.</p> <p>24 Q. Let me clarify. Did you say you</p> <p>25 can't teach old bitches new tricks in</p> | <p>1 Allan</p> <p>2 reference to Poochie Myer, yes or no?</p> <p>3 A. No.</p> <p>4 Q. Did you ever say anything about</p> <p>5 teaching new tricks in connection with Poochie</p> <p>6 Myer?</p> <p>7 A. I don't recall.</p> <p>8 Q. Did anyone ever tell you that</p> <p>9 Poochie Myer accuses you of saying you can't</p> <p>10 teach old bitches new tricks in reference to</p> <p>11 her?</p> <p>12 A. I never heard that.</p> <p>13 Q. That would be totally offensive;</p> <p>14 correct?</p> <p>15 A. You bet.</p> <p>16 Q. In violation of the company's</p> <p>17 discrimination policy; right?</p> <p>18 A. Yes.</p> <p>19 Q. And sexual harassment policy;</p> <p>20 right?</p> <p>21 A. Yes.</p> <p>22 Q. Now did you ever refer to a black</p> <p>23 female employee as that damn girl?</p> <p>24 A. Yes, I did.</p> <p>25 Q. Tell us what happened on that</p> |
| Page 324 | Page 325 |
| <p>1 Allan</p> <p>2 occasion Mr. Allan?</p> <p>3 A. The phones were ringing, this</p> <p>4 person was supposed to answer my phone amongst</p> <p>5 others because my assistant was away from the</p> <p>6 office. And the phones were ringing and I</p> <p>7 walked out of my office and I raised my voice</p> <p>8 and I said something like can somebody tell</p> <p>9 that damn girl to answer the phones.</p> <p>10 Q. Who was the black employee that --</p> <p>11 black female employee that you were referring</p> <p>12 to?</p> <p>13 A. I don't know her name.</p> <p>14 Q. Why did you refer to that black</p> <p>15 female employee as a damn girl?</p> <p>16 A. I was upset, phones were not being</p> <p>17 answered, I was wrong.</p> <p>18 Q. Was she a woman or a little girl?</p> <p>19 A. She was a woman.</p> <p>20 Q. Do you think it is appropriate Mr.</p> <p>21 Allan as the Editor-in-Chief of the Post to</p> <p>22 refer to a woman as a damn girl?</p> <p>23 A. No. It is wrong.</p> <p>24 Q. Did you ever apologize to that</p> <p>25 female employee for referring to her as quote,</p> | <p>1 Allan</p> <p>2 a damn girl?</p> <p>3 A. No, sir.</p> <p>4 Q. If you believe referring to her as</p> <p>5 a damn girl was wrong why didn't you ever</p> <p>6 apologize to her?</p> <p>7 A. I didn't come to that conclusion</p> <p>8 for some time.</p> <p>9 Q. Well eventually you did come to</p> <p>10 the conclusion; right?</p> <p>11 A. Yes.</p> <p>12 Q. After you came to the conclusion</p> <p>13 did you apologize to that young lady?</p> <p>14 A. I am sorry, I don't remember who</p> <p>15 she was. She may have left the company, I</p> <p>16 don't know.</p> <p>17 Q. Did you ever inquire as to whether</p> <p>18 that young lady still works at the Post?</p> <p>19 A. No.</p> <p>20 Q. Why not if you came to the</p> <p>21 conclusion that it was wrong to refer to her</p> <p>22 as a damn girl?</p> <p>23 A. I can't answer that question.</p> <p>24 Q. When you referred to this black</p> <p>25 female employee as a damn girl was that in</p> |

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|---|---|
| <p>1 Allan</p> <p>2 correct?</p> <p>3 A. Yes.</p> <p>4 Q. Would you agree that one of the</p> <p>5 cops depicted in this cartoon is stating --</p> <p>6 strike that -- states: They will have to find</p> <p>7 someone else to write the next stimulus bill?</p> <p>8 A. Yes.</p> <p>9 Q. Now, Mr. Allan, would you agree</p> <p>10 that in the February 18, 2009 edition of the</p> <p>11 New York Post there was a picture of President</p> <p>12 Barack Obama signing the stimulus bill in</p> <p>13 Denver, Colorado?</p> <p>14 A. I don't recall.</p> <p>15 Q. Do you recall that there was a</p> <p>16 picture of the president signing the stimulus</p> <p>17 bill before the page that contained this</p> <p>18 cartoon?</p> <p>19 A. I don't recall.</p> <p>20 Q. Do you recall that the New York</p> <p>21 Post also ran an editorial which referred to</p> <p>22 the stimulus bill as Obama's stimulus bill in</p> <p>23 that same paper on February 18, 2009?</p> <p>24 A. I don't recall.</p> <p>25 Q. The ape in this picture was</p> | <p>1 Allan</p> <p>2 intended to be President Barack Obama; is that</p> <p>3 correct?</p> <p>4 A. That is incorrect.</p> <p>5 Q. Do you recall ever referring to</p> <p>6 the protesters outside the building as being</p> <p>7 minorities and uneducated?</p> <p>8 A. No.</p> <p>9 Q. Did you ever refer to the</p> <p>10 protesters outside of the building at 1211</p> <p>11 Avenue of the Americas as being minorities?</p> <p>12 A. No.</p> <p>13 Q. Did you ever refer to the</p> <p>14 protesters outside the building as being</p> <p>15 uneducated?</p> <p>16 A. No.</p> <p>17 Q. Were the protesters -- strike</p> <p>18 that.</p> <p>19 You said earlier I think there</p> <p>20 were hundreds of protesters in front of the</p> <p>21 building?</p> <p>22 A. Yes.</p> <p>23 Q. Did you see them?</p> <p>24 A. Yes.</p> <p>25 Q. Could you tell if they were mostly</p> |
| Page 352 | Page 353 |
| <p>1 Allan</p> <p>2 people of color?</p> <p>3 A. Yes.</p> <p>4 Q. Did they have signs?</p> <p>5 A. I don't recall.</p> <p>6 Q. Did they appear to be angry?</p> <p>7 A. Yes.</p> <p>8 Q. Did you know that they were</p> <p>9 accusing the New York Post of being racist in</p> <p>10 connection with this cartoon?</p> <p>11 A. Yes.</p> <p>12 Q. Mr. Allan, your attorneys in this</p> <p>13 case filed an answer to Ms. Guzman's amended</p> <p>14 complaint on behalf of News Corporation, New</p> <p>15 York Post and yourself. Are you aware of</p> <p>16 that?</p> <p>17 A. Yes.</p> <p>18 Q. In paragraph 81 of the answer that</p> <p>19 was filed on your behalf states that: The</p> <p>20 plaintiff spoke with Ms. Jennifer Jehn</p> <p>21 regarding the cartoon.</p> <p>22 Do you know if that was true or</p> <p>23 not?</p> <p>24 A. Yes.</p> <p>25 Q. In paragraph 84 of the answer</p> | <p>1 Allan</p> <p>2 filed on your behalf it states that: The</p> <p>3 plaintiff spoke with Mr. Rabinowitz about the</p> <p>4 cartoon.</p> <p>5 Do you know if that is true?</p> <p>6 A. I don't know.</p> <p>7 Q. Joe Rabinowitz never told you that</p> <p>8 Ms. Guzman spoke to him about the cartoon?</p> <p>9 A. Not that I recall.</p> <p>10 Q. Did you review this answer before</p> <p>11 it was filed?</p> <p>12 A. I don't recall.</p> <p>13 Q. Would you have expected Joseph</p> <p>14 Rabinowitz to tell you that Ms. Guzman spoke</p> <p>15 to him about the cartoon if that had happened?</p> <p>16 A. Yes.</p> <p>17 Q. Why?</p> <p>18 A. It is not unimportant.</p> <p>19 Q. So you would agree, would you not</p> <p>20 Mr. Allan, the fact that Ms. Guzman spoke to</p> <p>21 Joe Rabinowitz about the cartoon was</p> <p>22 important?</p> <p>23 A. Yes.</p> <p>24 Q. This is something that you should</p> <p>25 have known about; correct?</p> |

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|--|--|
| <p>1 Allan</p> <p>2 sir?</p> <p>3 A. I don't recall.</p> <p>4 Q. Was she allowed to go to cover</p> <p>5 that ceremony for the New York Post?</p> <p>6 A. No.</p> <p>7 Q. Why not?</p> <p>8 A. Because she had told us that she</p> <p>9 was a friend of Justice Soto Mayor and</p> <p>10 therefore I felt that she had been conflicted.</p> <p>11 Q. Conflict?</p> <p>12 A. Yes. We don't assign people to</p> <p>13 cover people on the basis of friendships.</p> <p>14 Q. When Kevin Rudd ran for Prime</p> <p>15 Minister of Australia did you cover him in the</p> <p>16 New York Post?</p> <p>17 A. No.</p> <p>18 Q. Is it your testimony that there</p> <p>19 was not a single article written in the New</p> <p>20 York Post -- can I finish -- about the fact</p> <p>21 that Kevin Rudd was running for Prime Minister</p> <p>22 of Australia?</p> <p>23 A. I don't recall it.</p> <p>24 Q. Do you recall if there was ever an</p> <p>25 article in the New York Post about Kevin Rudd?</p> | <p>1 Allan</p> <p>2 A. I don't recall.</p> <p>3 Q. Would it have been inappropriate</p> <p>4 for an article to have been published about</p> <p>5 Kevin Rudd in the New York Post based on your</p> <p>6 relationship with him?</p> <p>7 A. I didn't have a relationship with</p> <p>8 him.</p> <p>9 MR. LERNER: Objection.</p> <p>10 Q. He was a friend of yours; correct?</p> <p>11 A. No. I never testified that he was</p> <p>12 a friend. I knew him for one day.</p> <p>13 Q. Now Ms. Guzman was terminated in a</p> <p>14 meeting with Joe Rabinowitz and someone from</p> <p>15 HR; correct?</p> <p>16 A. I don't know.</p> <p>17 Q. Let me ask you, do you know who</p> <p>18 conveyed to Ms. Guzman that she was being</p> <p>19 terminated as an associate editor at the Post?</p> <p>20 A. Jennifer Jehn.</p> <p>21 Q. How do you know that Jennifer Jehn</p> <p>22 conveyed that to her?</p> <p>23 A. She is the head of HR.</p> <p>24 Q. Other than the fact that she is</p> <p>25 the head of HR do you know if Jennifer Jehn</p> |
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| <p>1 Allan</p> <p>2 actually met with Ms. Guzman in connection</p> <p>3 with the termination?</p> <p>4 A. That is my recollection.</p> <p>5 Q. Mr. Allan, I am now showing you</p> <p>6 Allan Deposition Exhibit 21, which is Bates</p> <p>7 stamped NYP 3892, I ask you to take a moment</p> <p>8 to look at that document.</p> <p>9 (Allan Exhibit 21, Bates stamped</p> <p>10 NYP 3892, marked for identification,</p> <p>11 as of this date.)</p> <p>12 A. Yes.</p> <p>13 Q. Do you recognize this document</p> <p>14 sir?</p> <p>15 A. Yes.</p> <p>16 Q. What is it?</p> <p>17 A. An open jobs report.</p> <p>18 Q. What is an open jobs report?</p> <p>19 A. Jobs that are vacant at the</p> <p>20 newspaper.</p> <p>21 Q. This one is dated October 12,</p> <p>22 2009; correct?</p> <p>23 A. Yes.</p> <p>24 Q. So this is dated weeks after Ms.</p> <p>25 Guzman was terminated; correct?</p> | <p>1 Allan</p> <p>2 A. Yes.</p> <p>3 Q. Do you see it states open,</p> <p>4 Haberman, Z, associate metro editor?</p> <p>5 A. Yes.</p> <p>6 Q. So when Ms. Guzman was terminated</p> <p>7 there was an open associate editor position at</p> <p>8 the paper; is that correct?</p> <p>9 A. Correct.</p> <p>10 Q. Was any discussion Mr. Allan about</p> <p>11 possibly allowing Ms. Guzman to remain</p> <p>12 employed at the company after Tempo was</p> <p>13 closed?</p> <p>14 A. Yes. I asked three editors if</p> <p>15 there was a position in their departments or</p> <p>16 anywhere at the paper that Ms. Guzman might</p> <p>17 fill at her compensation.</p> <p>18 Q. Who were those three editors?</p> <p>19 A. Michelle Gotthelf, Jesse Angelo</p> <p>20 and Catherine Pushkar.</p> <p>21 Q. Who is Catherine Pushkar?</p> <p>22 A. She was a features editor.</p> <p>23 Q. Did you meet with those three</p> <p>24 editors together or individually when you</p> <p>25 inquired as to whether there was another</p> |

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| <p>1 Allan 2 position for Ms. Guzman? 3 MR. LIPPNER: Objection. 4 A. Independent. 5 Q. Did you take any notes? 6 A. No. 7 Q. Where did those meetings take 8 place? 9 A. I don't recall. 10 Q. Was anyone else present besides 11 you and each of those editors? 12 A. No. 13 Q. What is the metro desk at the 14 Post? 15 A. Metro desk is the city desk, it is 16 responsible for the reporters who cover the 17 city. 18 Q. Heart of the paper; correct? 19 A. Yes. 20 Q. Why wouldn't Ms. Guzman be allowed 21 to take that open position when Zach Haberman 22 left the paper? 23 A. Her compensation was \$135,000 a 24 year, this job is open at \$82,000 a year. 25 Q. Mr. Allan, I understand that there</p> | <p>1 Allan 2 was a difference between the salary, but why 3 didn't you at least offer it to Ms. Guzman 4 before she was fired? 5 A. It is my view that an employee who 6 had been forced to take a very large pay cut 7 in the order of \$55,000 or \$50,000, would not 8 be a happy employee. 9 Q. Is it your position that that 10 employee would be happier losing \$137,000 as 11 opposed to 50,000? 12 MR. LERNER: Objection. 13 A. I made that decision in the 14 interest of the newspaper. I didn't believe 15 it was appropriate or right to offer her a job 16 that would have caused her such a significant 17 pay cut. 18 Q. Did you think it was more 19 appropriate to fire her, she would have no 20 job? 21 A. She was hired to produce Tempo, 22 Tempo had ceased to exist. 23 Q. But she worked on 25 other 24 sections -- 25 MR. LIPPNER: Were you done with</p> |
| Page 400 | Page 401 |
| <p>1 Allan 2 your answer? 3 THE WITNESS: Yes. 4 Q. She was working on 25 other 5 sections of the paper at the time the Tempo 6 was closed; is that correct? 7 MR. LERNER: Objection. That is a 8 fact not in evidence. 9 Q. Correct? 10 A. Sorry? 11 Q. Isn't it a fact that Ms. Guzman 12 was working on 25 other sections of the paper 13 at the time she was terminated? 14 MR. LERNER: Objection. 15 A. She was working on other sections. 16 Q. How many other sections? 17 A. I don't know. 18 Q. So she wasn't only working on 19 Tempo; correct? 20 A. I asked that she be offered work 21 on other sections of the newspaper because 22 Tempo had become so emaciated that it was no 23 longer occupying much of her time. I mean it 24 was coming out once a month and it was tiny, 25 it was small.</p> | <p>1 Allan 2 Q. Isn't it true that you never once 3 considered offering Ms. Guzman that open 4 position that became vacant after Zach 5 Haberman left the paper? 6 A. I considered it and I decided not 7 to do it. 8 Q. Mr. Allan, could you put the 9 Deposition Exhibit 4 in front of you? 10 A. Exhibit 4. 11 Q. It should be there? 12 A. Sorry. 13 Q. It is number 5 -- look at this 14 one? 15 A. Yes. 16 Q. I want to direct your attention to 17 page 7 of that document? 18 MR. LERNER: What exhibit number? 19 MR. THOMPSON: 5. 20 Q. Do you see where it says 21 interrogatory number 8? 22 A. Yes. 23 Q. Do you see there is a list of 24 names there and in response to that 25 interrogatory, Bill Hoffman, Zach Haberman,</p> |

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| <p>1 Col Allan</p> <p>2 someone named Lizzie Sullivan?</p> <p>3 A I don't recall.</p> <p>4 Q Do you know who Lizzie Sullivan is?</p> <p>5 A The name rings a bell, but that's</p> <p>6 all.</p> <p>7 Q Do you recall whether she ever worked</p> <p>8 as a photographer at the New York Post?</p> <p>9 A She may have done so.</p> <p>10 Q And have you ever been in same room</p> <p>11 with Ms. Sullivan and Ms. Guzman?</p> <p>12 A It's possible.</p> <p>13 Q Have you ever been in the same room</p> <p>14 as Ms. Sullivan and Ikimulisa Livingston?</p> <p>15 A I don't know.</p> <p>16 Q Have you ever been in the same room</p> <p>17 as Ms. Sullivan and Austin Fenner?</p> <p>18 A I don't know.</p> <p>19 Q When you say it's possible that you</p> <p>20 may have been in the same room with Ms. Guzman and</p> <p>21 Ms. Sullivan, are you thinking of any particular</p> <p>22 occasions?</p> <p>23 A No. I occasionally go to Post</p> <p>24 functions and there are possible there. Sometimes</p> <p>25 there are lots of people, sometimes not so many</p> | <p>1 Col Allan</p> <p>2 people. I don't know. I don't recall.</p> <p>3 Q Any particular venues where you</p> <p>4 believe you would have been in the same room with</p> <p>5 Ms. Guzman and Ms. Sullivan?</p> <p>6 A Not that I recall.</p> <p>7 Q Did you ever, on any occasion, dance</p> <p>8 with Ms. Sullivan?</p> <p>9 MR. LERNER: Objection.</p> <p>10 A No.</p> <p>11 Q Have you ever had any physical</p> <p>12 contact with Ms. Sullivan?</p> <p>13 A No.</p> <p>14 Q Are you aware of any discussion</p> <p>15 regarding alleged physical contact between</p> <p>16 yourself and Ms. Sullivan on the part of anybody</p> <p>17 at the New York Post?</p> <p>18 MR. LERNER: Objection.</p> <p>19 A Yes. Vaguely, yes.</p> <p>20 Q How did you become aware of that</p> <p>21 discussion?</p> <p>22 A I don't recall. I don't -- I don't</p> <p>23 remember.</p> <p>24 Q And what was the substance of what</p> <p>25 was alleged regarding any contact between you and</p> |
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| <p>1 Col Allan</p> <p>2 Ms. Sullivan?</p> <p>3 MR. LERNER: Objection. Are you</p> <p>4 referring to allegations in this lawsuit?</p> <p>5 MR. PEARSON: I'm referring to</p> <p>6 documents that have been produced in</p> <p>7 connection with this lawsuit.</p> <p>8 MR. LERNER: Go ahead.</p> <p>9 MR. PEARSON: Can the question be</p> <p>10 read back for the witness, please?</p> <p>11 (Record read.)</p> <p>12 A I recall a claim that was made at</p> <p>13 some point that I had interacted with her on a</p> <p>14 dance floor at a function but -- or a claim that I</p> <p>15 had danced with her, but that is simply not true.</p> <p>16 Q So, at no time did you ever have any</p> <p>17 such interaction with Lizzie Sullivan?</p> <p>18 A I walked across the floor of a</p> <p>19 function room or a bar downtown where there was a</p> <p>20 Post function. I was going from here to there,</p> <p>21 one point to another, it caused me to walk across</p> <p>22 what may have been a dance floor, and I recall</p> <p>23 that somebody, and I assume it was Ms. Sullivan,</p> <p>24 made as if to, I guess, kind of dance with me, but</p> <p>25 I didn't stop. I kept going.</p> | <p>1 Col Allan</p> <p>2 MR. LERNER: Mr. Allan, I would just</p> <p>3 advise you, don't assume --</p> <p>4 THE WITNESS: Right.</p> <p>5 MR. LERNER: -- if you don't know --</p> <p>6 THE WITNESS: I don't know.</p> <p>7 MR. LERNER: -- something.</p> <p>8 A I don't know, I kept going.</p> <p>9 Q And what kind of function was that?</p> <p>10 A I don't recall.</p> <p>11 Q Was Ms. Guzman in attendance?</p> <p>12 A I don't recall.</p> <p>13 Q Were any other members of the Post's</p> <p>14 executive committee in attendance?</p> <p>15 A I believe Paul Carlucci was there.</p> <p>16 Q Anyone else from the committee?</p> <p>17 A Maybe Jennifer Jehn.</p> <p>18 Q Others?</p> <p>19 A I don't recall.</p> <p>20 MR. LERNER: Again, don't speculate</p> <p>21 or guess.</p> <p>22 A All right.</p> <p>23 Q And apart from counsel as always, did</p> <p>24 you discuss -- or, I should say, don't provide any</p> <p>25 substance of any conversations with counsel, but</p> |